

# Senate Study Bill 1042 - Introduced

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED DEPARTMENT OF  
INSPECTIONS AND APPEALS  
BILL)

## A BILL FOR

1 An Act relating to the practices and procedures of the state  
2 public defender.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 815.9, subsection 4, paragraph b, Code  
2 2013, is amended to read as follows:

3 b. If the appointed attorney is a private attorney or is  
4 employed by a nonprofit organization, the state public defender  
5 shall report to the clerk of the district court the amounts  
6 of any approved claims for compensation and expenses paid on  
7 behalf of a person receiving legal assistance after such claims  
8 have been reviewed and paid by the state public defender unless  
9 the appointed attorney is paid other than on an hourly rate  
10 basis and the state public defender has notified the appointed  
11 attorney that the attorney is responsible for reporting the  
12 attorney's total hours of service plus expenses to the court.

13 Sec. 2. Section 815.9, subsection 4, Code 2013, is amended  
14 by adding the following new paragraph:

15 NEW PARAGRAPH. c. If the appointed attorney has been  
16 notified by the state public defender that the attorney is  
17 responsible for reporting to the court the total hours of  
18 service plus expenses incurred in providing legal assistance  
19 to a person, the attorney shall submit a report to the court  
20 in the same manner as a public defender submits a report  
21 pursuant to paragraph "a". The amount of the attorney fees to  
22 be included in the total cost of legal assistance required to  
23 be reimbursed shall be calculated using the hours of service  
24 stated in the report at the hourly rate of compensation  
25 specified under section 815.7.

26 Sec. 3. Section 815.9, subsection 6, Code 2013, is amended  
27 to read as follows:

28 6. If the person receiving legal assistance is acquitted  
29 or has all charges dismissed in a criminal case or is a party  
30 in a case other than a criminal case, the court shall order  
31 the payment of all or a portion of the total costs and fees  
32 incurred for legal assistance, to the extent the person is  
33 reasonably able to pay, after an inquiry which includes notice  
34 and reasonable opportunity to be heard.

35 Sec. 4. Section 815.10, subsection 4, Code 2013, is amended

1 to read as follows:

2 4. The appointment of an attorney shall be on a rotational  
3 or equalization basis, considering the experience of the  
4 attorney and the difficulty of the case. The court may also  
5 consider the geographic proximity of the attorney's office to  
6 the courthouse and client.

7 Sec. 5. Section 815.10, Code 2013, is amended by adding the  
8 following new subsection:

9 NEW SUBSECTION. 7. The state public defender may adopt  
10 rules setting forth additional uniform standard procedures for  
11 the appointment of counsel and uniform forms for appointment.

12 Sec. 6. Section 815.10A, subsection 2, Code 2013, is amended  
13 to read as follows:

14 2. Claims for compensation and reimbursement submitted  
15 by an attorney ~~appointed after June 30, 2004,~~ and claims for  
16 any other expenses paid from the indigent defense fund are not  
17 considered timely unless the claim is submitted to the state  
18 public defender within forty-five days of ~~a withdrawal order,~~  
19 ~~sentencing, acquittal, or dismissal, whichever is earliest,~~  
20 ~~in a criminal case or the withdrawal order, final ruling, or~~  
21 ~~dismissal, whichever is earliest, in any other type of case~~ the  
22 date of service, as defined by the state public defender in  
23 rules.

24 Sec. 7. Section 908.2A, subsection 2, Code 2013, is amended  
25 to read as follows:

26 2. If the appointing authority determines counsel should be  
27 appointed and all of the criteria apply in subsection 1, the  
28 appointing authority shall appoint the state public defender's  
29 designee pursuant to section 13B.4. If the state public  
30 defender has not made a designation for the type of case or  
31 the state public defender's designee is unable to handle the  
32 case, a contract attorney with the state public defender may  
33 be appointed to represent the alleged parole violator. If a  
34 contract attorney is unavailable, an attorney who has agreed  
35 to provide these services may be appointed. The appointed

1 attorney shall apply to the state public defender for payment  
2 in the manner prescribed by the state public defender.

3 EXPLANATION

4 This bill relates to the practices and procedures of the  
5 state public defender.

6 If an appointed attorney is paid other than on an hourly  
7 basis and the state public defender has notified the appointed  
8 attorney to provide the reporting of the total hours of service  
9 and expenses for each case to the court, the bill requires the  
10 appointed attorney to provide such reporting to the court.

11 If an appointed attorney has been notified by the state  
12 public defender that the attorney is responsible for reporting  
13 to the court the total hours of service plus expenses incurred  
14 in providing legal assistance to a person, the bill requires  
15 the attorney to submit the report to the court in the same  
16 manner as a public defender under Code section 815.9(4).

17 If an indigent person has all charges dismissed in a criminal  
18 case, the bill requires the court to order payment of all or  
19 a portion of the total costs and fees incurred for any legal  
20 assistance to the extent the indigent person is reasonably able  
21 to pay. Current law requires an indigent person to pay the  
22 total costs and fees incurred to the extent the indigent person  
23 is reasonably able to pay if the indigent person was acquitted  
24 of the charges.

25 The bill permits the court to consider the geographic  
26 proximity of the attorney's office to the courthouse and the  
27 client when appointing an attorney to represent an indigent  
28 person.

29 The bill allows the state public defender to adopt rules  
30 setting forth additional uniform standard procedures for the  
31 appointment of counsel and uniform forms for appointment.

32 The bill requires that any claims for expenses paid from  
33 the indigent defense fund be submitted within 45 days of the  
34 "date of service". The definition for the "date of service"  
35 is found in 493 IAC 7.1. Current law only requires that claims

1 for compensation and reimbursement be submitted within 45 days  
2 of the date of service.

3     In a parole revocation case, if the appointing authority  
4 determines an alleged parole violator is entitled to the  
5 appointment of counsel, the bill requires that the appointing  
6 authority first appoint the state public defender's designee,  
7 and if the state public defender's designee is unavailable,  
8 the appointing authority is required to appoint a contract  
9 attorney with the state public defender. If a contract  
10 attorney is unavailable, an attorney who has agreed to provide  
11 representation to the alleged parole violator may be appointed.